

## REMARKS

Claims 1, 29, 30, 32 to 59, 66 to 70, 75, and 80 to 86 were pending prior to this Response. By the present communication, no claims have been added and claims 1, 29, 30, 32-39, 66-70, 75 and 82 have been canceled without prejudice. Applicants note that the Examiner indicated that claims 80 and 82-86 are allowable over the prior art of record (Office Action, page 6). Accordingly, claims 80 and 82-86 are currently pending in this application.

### Rejection Under 35 U.S.C. § 112, First Paragraph

Applicants respectfully traverse the rejection of claims 32-35 under 35 U.S.C. §112, first paragraph as allegedly failing to comply with the enablement requirement. In order to reduce the issues and further prosecution, Applicants have canceled claims 32-35 without prejudice, rendering the rejection moot. Withdrawal of the rejection is respectfully requested.

Applicants respectfully traverse the rejection of claims 29, 30, 32-59, 66-70 and 81 under 35 U.S.C. §112, first paragraph as allegedly failing to comply with the written description requirement. Specifically, the Examiner alleges that the application discloses that the term "gene" includes regulatory elements, yet the application does not provide an adequate written description of the specific regulatory regions of any of the genes that comprise the SEQ ID NOs mentioned. In order to reduce the issues and further prosecution, Applicants have canceled claims 29, 30, 32-59, 66-70 and 81 without prejudice, rendering the rejection moot. Withdrawal of the rejection is respectfully requested.

### Rejection Under 35 U.S.C. § 112, Second Paragraph

Applicants respectfully traverse the rejection of claims 1, 56, 66, 69, 70 and 75 under 35 U.S.C. §112, second paragraph as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In order to reduce the issues and further prosecution, Applicants have canceled claims 1, 56, 66, 69, 70 and 75 without prejudice, rendering the rejection moot. Withdrawal of the rejection is respectfully requested.

In re Application of:  
Harper et al.  
Application No.: 09/938,842  
Filed: August 24, 2001  
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**Conclusion**

Applicants submit that the claims are in condition for allowance, and a notice to that effect is respectfully requested. The Examiner is invited to contact Applicants' undersigned representative if there are any questions relating to this application. No additional fee is deemed necessary in connection with the filing of this Response. However, if any fee is required, the Commissioner is authorized to charge any fee (or credit any overpayment) to Deposit Acct. No. 07-1896.

Respectfully submitted,

  
for   
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